

other defendants, the defendant Samuel Adler throughout has acted as such officer for the other defendants or for the defendant Adler's Creamery, Inc., or the defendant Samuel Adler, Inc.

"15. In the service aforesaid to the defendants or to some of the defendants other than himself or itself, in his capacity and after having received actual notice thereof as president of, and in active concert or participation with the other defendants, Adler's Creamery, Inc., and Samuel Adler, Inc., or one of them, the defendant Samuel Adler served both the other defendants or one of them as president.

CONCLUSIONS OF LAW

"1. The plaintiff is entitled to the judgment prayed for in the complaint.

"2. The plaintiff is entitled to judgment against the defendants and each of them enjoining them from committing any of the violations aforesaid.

"3. The plaintiff is entitled to judgment against the defendants and each of them enjoining them from committing the violations or any of the violations aforesaid of subdivisions (a) (b) and (c) of Section 331 and of subdivisions (b) and (f) of Section 321 and of subdivisions (a) (3) and (4) of Section 342 and of subdivisions other than (f) (g) (h) and (j) of Section 332 of Title 21 of the United States Code.

"4. The plaintiff is entitled to recover from the defendants its costs and disbursements.

DIRECTION FOR JUDGMENT

"1. I direct that judgment in conformity with the foregoing be entered.

"2. The judgment should include a clause in substance to the effect of the second clause of the judgment in *U. S. v. Swift & Co., supra*.

"3. Let judgment be settled accordingly on four days' notice by the parties or the party first proposing it, with leave to the opponents or opponent on one day's notice for the same date to propose a counter form of judgment."

On February 20, 1946, the court issued an order perpetually enjoining the defendants from introducing or delivering for introduction into interstate commerce, milk and milk products which were adulterated as alleged in the complaint. The defendants appealed the judgment to the circuit court of appeals, but on May 24, 1949, by stipulation, the appeal was withdrawn.

14775. Action to enjoin and restrain the interstate shipment of sweet cream, cheese, cheese products, and milk curd. *U. S. v. Parley Lambert (Sweet Clover Creamery)*. Injunction granted. Defendant subsequently adjudged guilty of contempt and fined \$100. (Inj. No. 146.)

COMPLAINT FILED: On or about July 31, 1946, District of Utah, against Parley Lambert, trading as the Sweet Clover Creamery, Mount Emmons, Utah.

NATURE OF CHARGE: The defendant had been, and was at the time, shipping in interstate commerce, sweet cream, cheese, cheese products, and milk curd which were adulterated as follows: Section 402 (a) (3), the articles consisted in part of filthy substances, namely, manure and other ingredients; and, Section 402 (a) (4), the articles had been prepared, packed, and held under insanitary conditions.

The complaint alleged further that the buildings, walls, floors, shelves, vats, tanks, churns, and other equipment used in the preparation, packing, and holding of the articles, were infested at the time of such preparation, packing, and holding and continued to be infested with flies, beetles, and other insects, and rodents, and with dust, mold, dirt, excreta of rodents, and other filth; that milk used in the preparation of such foods was contaminated with manure and other matter; that the defendant had been warned that the conditions under which the articles were being prepared, packed, and held were insani-

tary and contrary to the provisions of the Act; and that the defendant, in disregard of the repeated warnings, had continued to prepare, pack, and hold the articles under insanitary conditions and to ship in interstate commerce, quantities of such articles and would continue to so ship such articles unless enjoined from so doing.

PRAYER OF COMPLAINT: That the defendant be permanently enjoined from commission of the acts complained of.

DISPOSITION: On October 11, 1946, a temporary order of injunction was entered which enjoined the defendant from introducing for shipment in interstate commerce any food products which had been prepared, packed, or held under insanitary conditions, or which were in any way adulterated within the meaning of the Act. It was ordered that the injunction be in full force and effect until modified, set aside, or made permanent by the further order of the court. The defendant was cited for contempt on or about September 30, 1948, for a violation of the injunction; and on October 9, 1948, after a hearing in the matter at which the defendant in effect pleaded guilty, the court imposed a fine of \$100.

14776. Adulteration and misbranding of condensed buttermilk. U. S. v. 15 Barrels * * *. (F. D. C. No. 25988. Sample No. 25255-K.)

LIBEL FILED: November 1, 1948, Northern District of Iowa.

ALLEGED SHIPMENT: On or about July 26, 1948, by Frank Pilley & Sons, Inc., from Springfield, Mo. Accompanying the product were a number of leaflets and circulars.

PRODUCT: 15 500-pound barrels of condensed buttermilk at Waverly, Iowa. Analysis disclosed that the article contained less than 5 percent of lactic acid.

LABEL, IN PART: "Pilley's Farmland Feed Condensed Buttermilk 96½% Condensed Whey 2½% * * * Minimum Analysis * * * Lactic Acid 5.00%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, lactic acid, had been in part omitted.

Misbranding, Section 403 (a), the following statements in the labeling were false and misleading since the product was not effective in the treatment of the diseases and conditions mentioned and was not effective for the purposes stated and implied: (Leaflet entitled "Instructions for Feeding") "For helping to maintain good digestion, and for providing the elements in the diet which promote big litters, easy farrowing, and sturdier, healthier, heavier pigs at farrowing time. * * * Treatment for Necrotic Enteritis * * * Aid in Prevention of Disease * * * to keep the digestive organs functioning properly and thus able to throw off the impurities taken into the bird's system daily. Because of this ability Farmland Condensed Buttermilk Feed is recognized as an aid in the prevention of chicken and poultry diseases * * * Preventing Disease in Baby Chicks and Poults" and (circular entitled "For A Perfectly Balanced Poultry Ration") "For Proper Healthy Growth * * * Maintain Healthier Flocks * * * decreased mortality, sustained good health * * * but also safeguards against * * * leg weakness, coccidiosis and black head. * * * for maintaining good digestion, which all poultry raisers agree is the basis for continuing good health in all poultry, both young and mature birds."